IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Douglas Dempsey, III,   )
                         Petitioner,   )   C/A No. 0:12-3254-TMC
)
        v.   )   **OPINION & ORDER**
)
Warden Willie Eagleton,   )
)
                         Respondent.   )
_____)

        Petitioner, a state prisoner proceeding pro se, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. The Magistrate Judge issued a Report and Recommendation ("Report") recommending that the Petition be dismissed without prejudice. (Dkt. # 7). The Magistrate Judge also provided Petitioner a notice advising him of his right to file objections to the Report. (Dkt. # 7 at 6). Petitioner filed objections to the Magistrate Judge's Report. (Dkt. # 9).

        The Court found Petitioner's objections to be without merit, adopted the Report, and summarily dismissed the Petition without prejudice. (Dkt. # 11). Petitioner appealed. On January 24, 2012, the Fourth Circuit Court of Appeals remanded this case for the limited purpose of supplementing the record with an order granting or denying a certificate of appealability.

        A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Rose v. Lee*,

252 F.3d 676, 683 (4th Cir. 2001). In the instant matter, the court finds that Petitioner has failed to make "a substantial showing of the denial of a constitutional right." Accordingly, the court declines to issue a certificate of appealability.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
January 24, 2013